

REMARKS

In the Office Action mailed on March 16, 2004, all pending claims 1-27 were rejected by the Examiner. Applicant respectfully traverses the rejections and requests reconsideration of the present application in view of the arguments below.

Rejections under 35 U.S.C. § 102

In the Office Action, claims 1, 2, 5, 8, 10-17, 19 and 27 were rejected under 35 U.S.C. § 102 (b) as being anticipated by Ross, Jr. et al. (U.S. Patent No. 5,823,948), which is herein referenced as the “Ross” reference. Applicant respectfully traverses the Examiner’s rejection.

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every element or step of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Thus, if the claims recite even one element not found in the cited reference, the reference does not anticipate the claimed invention.

The present application describes that secure collection and storage of sensitive data for reporting purposes is a concern to users because of unauthorized access to the data. *See* Application, page 1, lines 14-29. The passwords, codes, and encryption technologies, which are typically utilized to limit access or hinder the deciphering of the sensitive data, do not provide suitable protection. *See id.* at page 2, lines 11-17. Accordingly, the present application describes a technique that utilizes a separate processing space to store data, which is secure and not accessible to users, such as the user who entered or is destined to receive the report. *See id.* at page 3, lines 22-27. Accordingly, a data file is generated in a first processing space and exported to a second processing space for generation of a report. *See id.* at page 3, lines 25-29. As one embodiment, a secure processing space 34 that includes one or more databases not accessible by users may be utilized to provide a secure location for the data. Further, users, for inputting and

receiving reports, may also utilize a second processing space, which is generally accessible. *See id.* at page 6, lines 10-30. As such, the secure processing space 34 is not accessible to the user and provides a secure location for the data. *See id.* at page 9, lines 7-29.

The recitations of *storing data for a user in space inaccessible to the user* and *accessing data to create a secure data file* are clearly recited in the independent claims 1, 14 and 27. Specifically, claims 1 and 27 recite “storing data for a user on a secure data repository and operative in a first processing space inaccessible to the user” and “accessing data from the repository to create a secure data file in the first processing space.” Further, claim 14 recites “storing user data associated with the user in a first data repository,” “transmitting at least a portion of the user data from the first data repository to a second data repository operative in a first processing space inaccessible to the user” and “exporting the secure data file to a second processing space separated from the first processing space and accessible to the user.” Hence, each of the independent claims 1, 14 and 27 relate to storing data for a user in space inaccessible to the user *and* accessing data to create a secure data file.

In contrast to the claimed subject matter, the Ross reference describes an immediate triage system for generating patient records from medical reports and records that are supplied to physicians and nurses without burdening hospital personnel. *See* Ross, col. 1, lines 5-9. The Ross system includes peripheral terminals 9 that receive data, such as transcriptions of dictations, from the hospital personnel. *See id.* at col. 4, lines 60-col. 5, line 5. These transcriptions are placed in an electronic storage bin and transferred to file servers 2 and 3, which associate the transcriptions with data for specific patients. *See id.* at col. 5, lines 5-10. Accordingly, the file servers 2 and 3 provide a central location for patient data and associated transcriptions to be accessed by hospital personnel. *See id.* at col. 5, lines 34-52. To provide security, personnel must provide identification, which may include passwords, smartcards, or other personal identification technologies. *See id.* at col. 6, lines 50-64. The personnel have access to view the patient data, but the demonstration of identification provides the personnel with rights to perform various functions, such as order specific procedures, for example. *See id.* at col. 12, lines 54-67.

Hence, the Ross reference simply teaches a hospital network with limited access to the network, but not limited access to the data on the network once the identification is verified.

In the rejection of independent claims 1, 14 and 27, the Examiner asserted that the Ross reference disclosed all of the claimed subject matter. However, contrary to the Examiner's assertions, the Ross reference fails for at least two reasons. First, the Ross reference does not disclose "storing data for a user on a secure data repository and operative in a first processing space inaccessible to the user," as recited in claims 1 and 27, and "transmitting at least a portion of the user data from the first data repository to a second data repository operative in a first processing space inaccessible to the user," as recited in claim 14. Secondly, the Ross reference does not disclose "accessing data from the repository to create a secure data file in the first processing space," as recited in claims 1 and 27, and "exporting the secure data file to a second processing space separated from the first processing space and accessible to the user," as recited in claim 14. Hence, the Ross reference fails to anticipate the claimed subject matter of independent claims 1, 14 and 27.

First, the Ross reference does not disclose "storing data for a user on a secure data repository and operative in a first processing space inaccessible to the user," as recited in claims 1 and 27, and "transmitting at least a portion of the user data from the first data repository to a second data repository operative in a first processing space inaccessible to the user," as recited in claim 14. In the Ross reference, personnel must demonstrate their identity to establish access to the network and be granted specific rights in the network. *See* Ross, col. 12, lines 55-67. As noted above, the rights granted to the personnel enable that *user* (i.e. personnel) to order procedures and otherwise modify the data that the *user* entered into the system. For example, a nurse may order labs, while a records clerk may change demographic information. *See id.* at col. 12, lines 59-67. Again, the patient data is shown to any personnel because it is a medical triage system that has to provide information to personnel on patients. The only limitation in access to the patient data is the modification of the patient data, which is limited to personnel who are in a certain class of users, such as the personnel that entered the data. *See id.* at col. 13, lines 5-31. Clearly, the Ross reference does not store data in a processing space that is *inaccessible to the user* because other

personnel can view the patient data and the personnel that entered the data can view and modify the data. As such, the Ross reference fails to disclose the claimed subject matter.

Secondly, the Ross reference fails to disclose the Ross reference does not disclose “accessing data from the repository to create a secure data file in the first processing space,” as recited in claims 1 and 27, and “exporting the secure data file to a second processing space separated from the first processing space and accessible to the user,” as recited in claim 14. In the rejection, the Examiner again asserted that the Ross reference discloses the claimed subject matter. However, as noted above, the Ross reference merely describes that patient data is transferred from the CPU’s, which are the peripheral devices 9, to the file servers 2 and 3. *See id.* at col. 5, lines 34-46. The patient data, which may include transcriptions of dictations in the form of text files along with other patient data, is accessible by the user. Indeed, the patient data and transcription files are accessible by nurses and physicians within the hospital. *See id.* at col. 5, line 66-col. 6, line 29; col. 7, lines 6-15. Clearly, the reference is devoid of any reference to a secured data file, much less, accessing secure data to create a secure data file. As such, the reference does not disclose the claimed subject matter.

For at least these reasons, independent claims 1, 14 and 27, and the respective dependent claims are believed to be allowable over the Ross reference. Therefore, withdrawal of the rejection and allowance of the claims is respectfully requested.

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 3, 4, 6, 7, 9, 18 and 20-26 under 35 U.S.C. § 103(a) as being unpatentable over Ross, Jr. et al. (U.S. Patent No. 5,823,948) in view of Rasansky et al. (U.S. Patent No. 5,960,406), which is herein referred to as the “Rasansky” reference. Applicant respectfully traverses this rejection.

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention

absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

Claim 20 and the Claims Depending Therefrom

Independent claims 20 recites:

a secure data repository operative in a first processing space for storing user data input via a configurable network, the first processing space being inaccessible by the user via the network;
a data access program module, operative in the first processing space for extracting report data from the secure data repository.

As such, recitations of independent claim 20 include *storing user data in space inaccessible to the user* and *extracting report data from a secure data repository*.

In the rejection, the Examiner asserted that the Ross reference discloses all of the claimed subject matter, except it fails to expressly disclose that the report template is stored in the second processing space. In an attempt to cure this deficiency, the Examiner relied on the Rasansky

reference to disclose this feature. However, contrary to the Examiner's assertion, the Ross and Rasansky references fail to disclose all of the claimed subject matter for at least two reasons. First, the cited references fail to disclose "a secure data repository operative in a first processing space for storing user data input via a configurable network, the first processing space being inaccessible by the user via the network," as recited in independent claim 20. Secondly, the Ross and Rasansky references fail to disclose "a data access program module, operative in the first processing space for extracting report data from the secure data repository," as recited in independent claim 20. Hence, the cited references fail, at a minimum, to disclose all of the claimed subject matter.

First, the Ross and Rasansky references fail to disclose "a secure data repository operative in a first processing space for storing user data input via a configurable network, the first processing space being inaccessible by the user via the network," as recited in independent claim 20. As noted above, the Ross system allows personnel to gain access to the system through establishing a user identity, which provides access, such as viewing of the patient data, to any personnel able to log onto the system. *See* Ross, col. 7, lines 6-15; col. 12, lines 54-67. Accordingly, for these reasons and the reasons cited above, the Ross reference fails to disclose *storing user data in space inaccessible to the user*. As such, for the rejection to stand, the Rasansky reference must disclose the claimed subject matter.

While the Examiner does not rely on the Rasansky reference to disclose "a secure data repository operative in a first processing space for storing user data input via a configurable network, the first processing space being inaccessible by the user via the network," as recited in independent claim 20, the Rasansky reference fails to cure the deficiencies of the Ross reference. In the Rasansky reference, users are able to access and schedule times on one another's calendars. *See* Rasansky, col. 1, lines 5-11. Accordingly, in the Rasansky reference, the users can generate schedules and view schedules by others that subscribe to the calendar system. *See id.* at col. 4, lines 16-19. As such, the reference clearly describes that user data is accessible to the user because the user may modify and view their schedule. Clearly, the Rasansky reference does not disclose *storing user data in space inaccessible to the user*. As such, the Rasansky

reference fails to cure the deficiencies of the Ross reference. Accordingly, the Ross and Rasansky references, alone or in combination, fail to disclose “a secure data repository operative in a first processing space for storing user data input via a configurable network, the first processing space being inaccessible by the user via the network,” as recited in independent claim 20.

Secondly, the Ross and Rasansky references fail to disclose “a data access program module, operative in the first processing space for extracting report data from the secure data repository,” as recited in independent claim 20. Again, as noted above, the Ross reference fails to disclose a secure data repository, much less a data access program module that extracts report data from the secure data repository. In the Ross reference, the personnel may access any information based on the personnel providing identification, as previously discussed. As such, the Ross reference fails to disclose *extracting report data from a secure data repository*. Accordingly, for the rejection to stand, the Rasansky reference must disclose the subject matter.

Again, while the Examiner does not rely on the Rasansky reference to disclose “a data access program module, operative in the first processing space for extracting report data from the secure data repository,” as recited in independent claim 20, the Rasansky reference fails to cure the deficiencies of the Ross reference. In the Rasansky reference, the users can modify calendar data for themselves, generate schedules, and view schedules of others that subscribe to the system. *See id.* at col. 4, lines 16-19. As such, the reference clearly describes that the user data is accessible to the user, which is not in a secure data repository because the user may modify and view their schedule. Clearly, the Rasansky reference does not disclose *accessing report data from the secure data repository*. As such, the Rasansky reference fails to cure the deficiencies of the Ross reference. Accordingly, the Ross and Rasansky references, alone or in combination, fail to disclose “a data access program module, operative in the first processing space for extracting report data from the secure data repository,” as recited in independent claim 20.

With this in mind, Applicant respectfully asserts that the Rasansky reference does not obviate the deficiencies of the Ross reference discussed above. Accordingly, Applicant respectfully asserts that the instant claims are patentable over the cited references, taken alone or

in combination, because the cited references fail to disclose all of the features recite in the instant claims. Therefore, in view of the foregoing remarks, withdrawal of the rejection and allowance of the pending claims is respectfully requested.

Claims 3, 4, 6, 7, 9 and 18

Claims 3, 4, 6, 7 and 9 depend from independent claim 1, while claim 18 depends from independent claim 14. As such, each of the foregoing rejected claims is a dependent claim that depends from one of the independent claims discussed above. With this in mind, Applicant respectfully asserts that the Rasansky reference does not obviate the deficiencies of the Ross reference, as discussed above. Accordingly, Applicant respectfully asserts that the instant claims are patentable over the cited references, taken alone or in combination, because the cited references fail to disclose all of the features recited in the instant claims.

Therefore, Applicant respectfully asserts that the instant claims are patentable and in condition for allowance. In light of the foregoing remarks, reconsideration and allowance of the pending claims are respectfully requested.

Conclusion

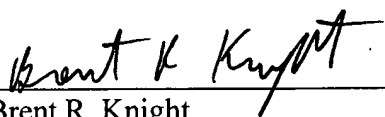
In view of the remarks set forth above, Applicant respectfully requests allowance of pending claims 1-27. If the Examiner believes a telephonic interview will help speed this application towards issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

General Authorization for Extensions of Time

In accordance with 37 C.F.R. § 1.136, Applicant hereby provides a general authorization to treat this and any future reply requiring an extension of time as incorporating a request therefor. Furthermore, Applicant authorizes the Commissioner to charge the appropriate fee for any extension of time to Deposit Account No. 50-2402; Order No. GEMS:0098/YOD; 15-SV-5664.

Respectfully submitted,

Date: June 16, 2004



Brent R. Knight
Reg. No. 54,226
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545